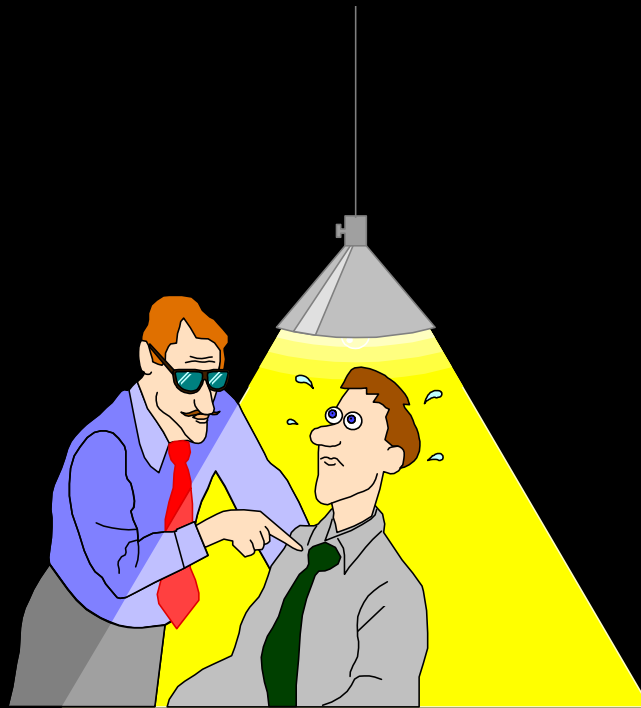


CONCEPT OF PRIVILEGE



The Concept of Privilege

“The concept of privilege pervades the Naval Aviation Safety Program to the extent that an understanding of that concept is required for full comprehension of the program.”

- OPNAVINST 3750.6

OBJECTIVES

- * Define the purpose of Privilege as it relates to Safety investigations
- * State the circumstances under which privilege is granted
- * Determine what items of evidence are considered privileged vs. non-privileged

INVESTIGATIVE BODIES

- * AMB - Aircraft Mishap Board
- * JAG - Judge Advocate General
- * FFPB - Field Flight Performance Board
- * FNAEB/FNFOEB - Field Naval Aviator/Flight Officer Evaluation Board
- * NTSB - National Transportation Safety Board

PURPOSE OF INVESTIGATIONS

- * NTSB - Determine cause, make recommendations to FAA
- * FNAEB/FNFOEB/FFPB - determination of flight status
- * JAG - Liability, negligence, claims
- * AMB - Prevent recurrence

(Insert a story here from your community that demonstrates the value of privilege. I.e., read an excerpt from a community MIR that uses very frank language to explain why the mishap occurred.)

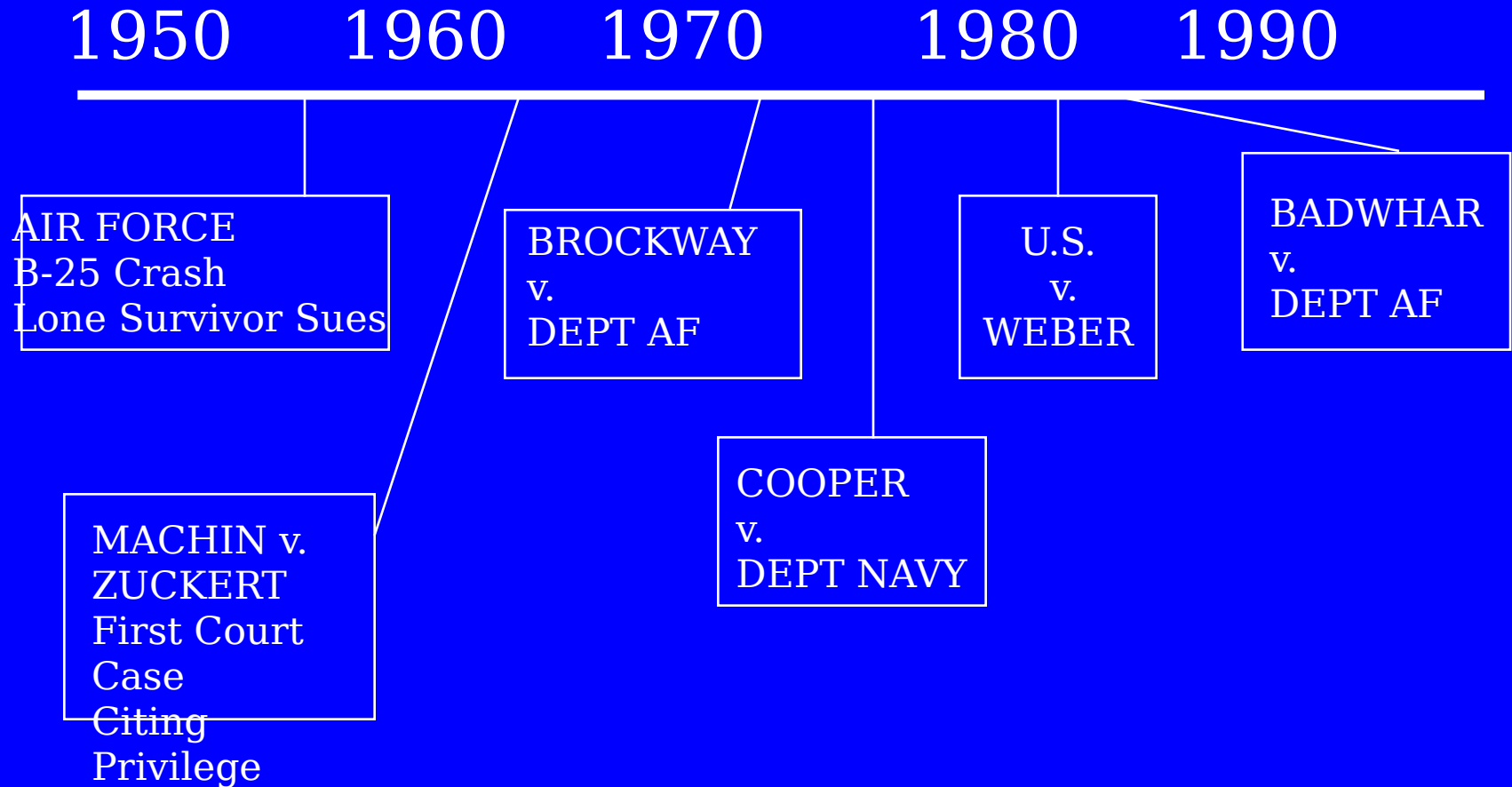
PURPOSE OF PRIVILEGE

- * Encourage witnesses to reveal complete and candid information pertaining to a mishap.
- * Encourage AMBs *and* Endorsers of MIRs to provide complete, open and forthright information and opinions.

DEFINITION OF PRIVILEGE

- * Evidence that has been:
 - Gathered by AMB,
 - During Mishap Investigation, with
 - Promise of Confidentiality
- * For SAFETY purposes only

HISTORY OF THE CONCEPT OF PRIVILEGE



WHAT IS PRIVILEGED

- * Witness statements given to AMB
- * “Staged” Photographic evidence
- * AMB Deliberations
 - Analysis (including derived data)
 - Conclusions
 - Recommendations
- * MIR and all Endorsements

WITNESS STATEMENTS

When made to a member of an AMB are:

- * Always privileged (even if Mishap Investigation is later cancelled)
- * Never taken under oath
- * Shall be made using appendix 6A, the “Witness Statement Form”.

(Insert overhead slide of
Appendix 6A Witness
Form Here)

NON-PRIVILEGED INFO

- * Factual Data
- * Generally Available
- * Confidentiality neither expected nor promised

NON-PRIVILEGED INFO

- * NATOPS Jacket/Logbooks/Trng records
- * Photographic coverage of accident scene
- * Sketches/Diagrams of scene
- * Weather brief
- * Flight Schedule
- * Videos/recordings
- * EI's

ENDORSEMENTS

MIR

**NON
PRIVILEGE**

**HR, MR,
EI, ETC.**

PRIVILEGE

AMB

PRIVILEGE

NON PRIVILEGE

NON PRIVILEGE

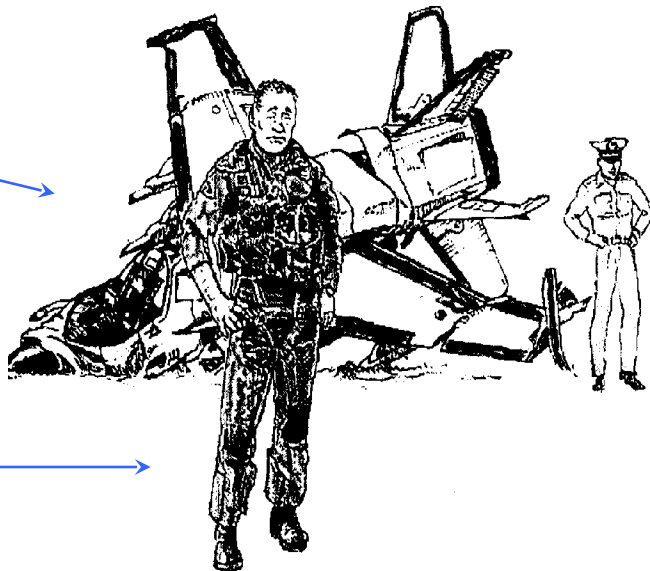
**NON
PRIVILEGE**

NON PRIVILEGE

JAG

**CANNOT
SHARE
PRIVILEGED
INFO**

FFPB/FNAEB



“NEGATORY, RED LEADER”

- * Privileged Information shall NOT be used for:
 - Line-of-Duty/Misconduct determination
 - To determine liability
 - Before an administrative body (e.g. FFPB/FNAEB/FNFOEB, etc.)
 - In any other punitive/disciplinary actions
 - In any investigation or reports other than the MIR

VIOLATION OF PRIVILEGE

- * Violations of privilege are subject to prosecution under the UCMJ
 - This includes the right to redress if your career is affected by such violation



GOTCHA'S

- * EI's, HMR's related to a Mishap
 - OPNAV 4790.2 Vol II (page 5-15)
 - Must route through ASO if Mishap related
- * Witness Statements
 - Remain privileged (even if Mishap Investigation is later cancelled)
 - Never taken under oath
 - Shall be made using "Witness Statement Form"

SUMMARY

- * Privilege **DOES NOT**
 - Protect your identity
- * Privilege **DOES**
 - Help us investigate Mishaps
 - Prevent future Mishaps
 - Protect your career

QUESTIONS?

